

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

LAVAR ELLIS,

*

*

Petitioner

*

*

*

*

*

No. 4:07cr0077 SWW

vs.

(No. 4:09cv00141 SWW)

*

*

*

*

*

*

*

UNITED STATES OF AMERICA

*

*

Respondent.

*

ORDER

Before this Court is petitioner Lavar Ellis' motion for a certificate of appealability [doc.#50] from this Court's denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. To obtain a certificate of appealability on claims for § 2255 relief, a petitioner must make "a substantial showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(c)(2). A substantial showing is a showing that the issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. *See, e.g., Carson v. Director of the Iowa Dept. of Correctional Services*, 150 F.3d 973, 975 (8th Cir. 1998); *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). After reviewing the record in this case, this Court determines that Ellis has failed to make the required showing of the denial of a constitutional

right and that his motion seeking a certificate of appealability should be and hereby is denied.¹

IT IS SO ORDERED this 27th day of July 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

¹ In his motion for a certificate of appealability, Ellis states *inter alia* that this Court ruled on his § 2255 motion without allowing him access to transcripts. The Court notes that in his § 2255 motion, Ellis stated he would be filing a motion to produce records and transcripts once his § 2255 motion was filed with the Court. *See* Motion at 4 n.3 [doc.#25]. However, Ellis' § 2255 motion was filed February 26, 2009, and no motion to produce transcripts was filed until June 10, 2009, two weeks after this Court issued its Memorandum and Order denying Ellis' § 2255 motion.